

II. DEFINITIONS

Unless the context requires otherwise, the following definitions apply in this manual.

"Abstract" means the computer printout of each claim of an existing water right showing the information submitted on the sworn claim, any changes authorized by the water court, remarks noting any obvious factual or legal issues presented by the claim, and other remarks explaining the nature and extent of the claimed water right.

"Acreage" means the number of irrigated acres.

"Adjudication" means the judicial determination of water rights that existed prior to July 1, 1973.

"Amended Claim" means the contents of a submitted claim as altered or changed by the claimant as to any matter contained in the original claim and as allowed by the water court.

"Animal Unit" means one cow and calf pair, three pigs, or five sheep. One horse is 1.5 animal units.

"Appropriate" means to divert, impound, or withdraw a quantity of water for a beneficial use.

"Basin Code" means the respective number/letter combination used to identify each of the 85 basins in Montana (e.g. 43QJ) according to the Atlas of Water Resources of Montana prepared by the Montana Water Resources Board.

"Beneficial Use" means a use of water recognized as beneficial prior to July 1, 1973 and used for the benefit of the appropriator, other persons, or the public and may include but not be limited to agricultural (including stockwater), domestic, fish and wildlife, industrial, irrigation, mining, municipal, power generation, and recreational uses.

"Centralized Record System" means the records of all claims of existing rights, permits, certificates, applications, and other documents filed with the department.

"Change in Appropriation Right" means a change in the place of diversion, place of use, purpose of use, or place of storage of a water right made in accordance with §85-2-402, MCA.

"Claim" means a declaration of an existing right, as defined in §85-2-224, MCA, filed with the department upon order of the Montana Supreme Court.

"Claimant" means any person, according to §85-2-102, MCA, who has filed a statement of claim or is successor in interest to a claimed existing water right.

"Claimant Contact" means communication between the department and a claimant or claimant's authorized representative regarding their claimed water right.

"Clarification" means the process by which elements of a water right are made more complete, clear, concise, and interpretable without changing the intent of the claimed information.

"Climatic Area" means areas defined by differing climatic and geographic conditions containing similar crop consumptive use data as delineated by the United States Department of Agriculture, Soil Conservation Service.

"Dam Height" means the vertical distance from the lowest point of the dam crest to the lowest point on the natural ground along the downstream toe of the dam.

"Decree Abstract" means a summary of a claimed water right printed by a computer that appears as part of a water court issued decree. The decree abstract contains the claimed information, changes authorized by the Water Right Claim Examination Rules or the water court, and water court ordered data, changes and remarks.

"Decreed Right" means a claimed water right previously determined in a judicial decree.

"Department" means the Montana Department of Natural Resources and Conservation.

"Developed Spring" means groundwater if its natural flow is increased by some development at its point of extrusion from the ground, such as simple excavation, cement encasement, or rock cribbing.

"Examination" or "Verification" means the process under these rules of examining, gathering information, and reporting data, facts, and issues pertaining to the claims of existing water rights.

"Existing Water Right" means a right to the use of water which would be protected under Montana law as it existed prior to July 1, 1973.

"Field Investigation" means an on-site inspection, under §85-2-243, MCA, of physical evidence and features relating to the individual elements of a claimed water right.

"Filed Appropriation Right" means a water right which has been filed and recorded in the office of the county clerk and recorder.

"Final Decree" means the final water court determination of existing water rights within a basin or subbasin, as described in §85-2-234, MCA.

"Flow Rate" means the rate at which water has been diverted, impounded or withdrawn from the source for beneficial use.

"Groundwater" means any water that is beneath the ground surface.

"Guideline" means an estimate of reasonable use to be used as the benchmark for initiating further department review or claimant contact. The estimate of reasonable water use is derived from technical data and recommendations of the department and adopted by the water court.

"Historical Irrigation" means irrigation that took place for the first time before July 1, 1973. It may also mean irrigation that does not appear on any available maps or photographs, but which may have taken place before such maps and photographs were compiled.

"Household" means the dwelling, house, or other domestic facilities where a family or social unit lives.

"Implied Claim" means a claim authorized by the water court to be separated and individually identified from multiple rights evident in one or more claims.

"Interior Drainage" means an area in which water drains into a depression from which water only escapes by evapotranspiration or subsurface drainage. The scale varies from a small kettle in a glaciated area to a large playa lake, such as the Great Salt Lake in Utah.

"Irrigation" means the application of water to the land to eliminate the moisture limitation to crop production. (Soil Conservation Service, 1979.)

"Irrigation District" means a statutory district created pursuant to Title 85, Chapter 7, MCA.

"Lake" means a naturally occurring inland body of water.

"Late Claim" means a claim to an existing right forfeited pursuant to the conclusive presumption of abandonment under 85-2-226.

"Legal Land Description" means the description given to a parcel of land in terms of, but not limited to, section, township, range, and county.

"Means of Diversion" means the structures, facilities, or methods used to appropriate water from the source of supply.

"Microfilm Record" means a photographic film record on a reduced scale of all paper documents related to a water right.

"Multiple Use" means a single appropriation used for more than one purpose by a single owner.

"Natural Overflow" means the water which results in the flooding of lands adjoining streams during high flow with no man-made diversion involved.

"Natural Subirrigation" means irrigation resulting from a naturally occurring high water table condition that supplies water for crop use.

"Non-consumptive" means a beneficial use of water that does not cause a reduction in the source of supply and in which substantially all of the water returns without delay to the source of supply, causing little or no disruption in the source conditions.

"Other Uses" means all uses of water for beneficial purposes other than stockwater, domestic, and irrigation uses.

"Owner" means any person, according to §85-2-102, MCA, who has title or interest in water rights or properties.

"Period of Use" means the period in a calendar year when water is used for a specified beneficial use.

"Place of Use" (POU) means the lands, facilities, or sites where water is beneficially used.

"Point of Diversion" (POD) means the location of the initial diversion of water from the source of supply.

"Preliminary Decree" means the preliminary water court determination of existing water rights within a basin or subbasin as described in §85-2-231, MCA, which precedes the final decree.

"Priority Date" means the allocation date associated with a beneficial use of water which determines ranking among water rights on a source, expressed by day, month, and year.

"Regional Office" means one of eight branch offices established by the department to provide water right information and assistance to the public or public agencies.

"Remarks" means statements added to the decree abstract or the department's examination report during claim examination, which explain unique aspects or features of a water right, provide information about a water right, limit or define a water right, or identify factual and legal issues for consideration by the water court.

"Reserved Right" means a water right reserved to fulfill the primary purpose of land withdrawn from the public domain by an act of congress, a treaty, executive order, or explicit direction of congress in federal statutes.

"Reservoir" means a storage facility created by man-made means that impounds water storing it for beneficial use.

"Source" means the specific supply from which water is taken for a beneficial use.

"Spring" (See developed spring and undeveloped spring)

"Subbasin" means a designated area that drains surface water to a common point within a basin.

"Summary Report" means a report sent to the Montana Water Court presenting claimed data and summarizing the department's examination findings for each claim within a basin or subbasin.

"Supplemental Rights" means separate water rights for the same purpose, owned by the same claimant, and used on a common place of use.

"Temporary Preliminary Decree" means a water court decree, prior to the issuance of the preliminary decree, as necessary for the orderly administration of existing water rights pursuant to §85-2-231, MCA.

"Transfer" means a change in ownership of water rights pursuant to §§85-2-421 through 85-2-426, MCA.

"Undeveloped Spring" means surface water if its natural flow is not increased by some development at its point of extrusion from the ground.

"Use Right" means a claimed water right perfected by appropriating and putting water to beneficial use without written notice, filing, or decree.

"Volume" means the amount of water which has been diverted, impounded, or withdrawn from the source over a period of time for beneficial use, usually measured in acre-feet.

"Waste And Seepage" Waste water means the loss of water through the design or operation of an appropriation or water distribution facility. Seepage is the movement of water through a porous soil; its origin could be from another's waste or occurring naturally.

"Water Court" means the water division of the state courts presided over by water judges responsible for adjudicating existing water rights in Montana as provided for in Title 3, Chapter 7, MCA.

"Water Judge" means a judge responsible for adjudicating existing water rights as provided for in Title 3, Chapter 7, Part 2, MCA.

"Water Master" means a person appointed by a water judge to assist in the adjudication of existing water rights as provided for in Title 3, Chapter 7, Part 3, MCA, and Rule 53 of the Montana Rules of Civil Procedure.

"Water Resources Survey" (WRS) means a survey of water resources and water rights in Montana on a county basis by the former State Engineer's Office or Water Resources Board, predecessors of the department.

"Water Spreading" means surface flood irrigation involving the diversion of occasional (flood or runoff) surface water from natural, usually nonperennial, water courses by means of dams, dikes, or ditches, or a combination of these. It differs from conventional irrigation because it is totally dependent on and regulated by the availability of water, not crop needs.

"Well" means any artificial opening or excavation in the ground, however made, by which groundwater is sought or can be obtained or through which it flows under natural pressure or is artificially withdrawn.